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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: |) | Art Unit: 1761 |
| Arturo GEIFMAN et al |) | Examiner: L. Wong |
| Appln. No.: 09/701,237 |) | Washington, D.C. |
| Date Filed: February 15, 2001 |) | Confirmation No. 8709 |
| For: A CLEAR TOMATO CONCENTRATE AS A TASTE ENHANCER |) | ATTY.'S DOCKET: |

DECLARATION UNDER 37 CFR 1.132

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Dov Hartal, hereby solemnly declare as follows:

I am the same Dov Hartal who is named inventor and applicant of publication WO 95/16363, cited as reference AA in the above-identified application 09/701,237, in the name of Geifman et al, and I am also a co-inventor of the above-identified application;

A copy of my Curriculum Vitae is attached from which it will be apparent that I am an expert in the present art;

I am very familiar with the events leading up to the subject matter appearing in W095/16363, and am also very familiar with the above-identified U.S. application 09/701,237;

I hereby state as a matter of fact that as of the time of the filing of International application PCT/US94/14264 which

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later published as W095/16363, and even thereafter, i.e. at the time of such International publication, my co-inventors and I had no idea of the possible use of clear tomato concentrate (CTC) as a taste enhancer, and there is no indication in such publication of any use of CTC as a taste enhancer.

Further research, subsequent to the publication of WO 95/16363 led to the discovery that CTC could be used as a taste or flavor enhancer, much the same way that other flavor enhancers such as MSG are used, and this was a surprising discovery to us because we had no idea that CTC could be so used and would be effective.

I have also reviewed the Yoji English language Abstracts and other prior art documents which have been used by the U.S. patent examiner in the above-identified application, and state as follows with respect to these documents:

Such Yoji Abstracts do not disclose the use of any CTC for taste enhancement.

One of the Yoji publications, i.e. JP 59 095869, describes the manufacture of a "mild health drink" by first preparing a transparent tomato liquid by removal of insoluble materials from heat treated tomato juice, and then adding gaseous carbon dioxide or carbonated water to the clear tomato liquid (not a concentrate). I do not see any description of making any clear tomato concentrate, and there is no description

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that any clear tomato concentrate could be used as a flavor enhancer.

The other Yoji Abstract 59 095868 also describes a "mild drink" obtained by separating insoluble materials from a heat-treated tomato juice. This transparent tomato liquid, which is not a concentrate, is then incorporated with a transparent alcoholic drink, e.g. sake or other wine, and the resultant alcoholic drink is said to be "without the unique flavor of the tomato, dull sense of the tomato juice nor further alcoholic smell".

As a matter of fact, transparent tomato liquid obtained by separating insoluble materials from heat treated tomato juice does have the flavor of the tomato, contrary to what is stated in the Yoji Abstract 59 095868, and I must conclude that the SAKE wine which is mixed with the transparent tomato liquid masks the taste of the tomato.

This last mentioned Yoji Abstract, like the one mentioned previously, does not disclose any concentrate, nor does it disclose that such a concentrate could be used as a flavor enhancer.

The Dainho Ashigyo abstract of JP 59 095871A says very little except that a transparent supernatant of tomato juice is obtained and that alkali and/or alkaline earth metal ions are added for flavoring along with other flavoring components

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whereby there is apparently obtained a liquid having improved flavor and texture quite different from the original tomato juice. There is no hint of any concentrate of any liquid or that such a concentrate itself has any flavor enhancement properties.

Lastly mentioned is an Abstract in the name of deBarros et al which only mentions that thermal concentration of tomato juice or pulp is facilitated by treatment with certain enzymes. Nothing is said of the separation of a clear tomato liquid, or its concentration and its hydrolyzation, or that any resultant clear tomato concentrate could possibly be useful as a flavor enhancer.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 29.07.03

By


Dov Hartal

HARTAL RESEARCH & DEVELOPMENT LTD.

Curriculum Vitae Dr. Dov Hartal

PERSONAL

Born in 1936. Married. Father to two daughters and a son.

ACADEMIC BACKGROUND

Ph.D. University of Illinois, Urbana, Ill. U.S.A.

M.Sc. University of Illinois, Urbana, Ill. U.S.A.

B.Sc. Technion, Haifa, Israel.

EMPLOYMENT

1992 - Present; Managing Director of Hartal R&D Ltd. Initiator and in charge of R&D of the Lycopene project from its beginning in Koor Foods through pilot stage in Makhteshim Chemical Products, to industrial production by LycoRed Natural Products Industries. Several patent applications were submitted as result of his work.

1980 - 1992; Division Head, Koor Foods Research & Development, Member of the Management Committee, Koor Foods Group. Played crucial role in devising strategy for the group and its constituent factories. Was responsible for evaluation and coordination of technology projects and the representative of Koor Foods Group in technological and scientific forums.

1969 - 1980; Chief Food Technologist for Vita company. Was responsible for quality assurance, new product and process development. Represented Vita and the Israel Manufacturers Association in various professional committees.

1974 - 1980; Assistant Professor in Food Technology in the Agricultural Faculty of the Hebrew University.

1967 - 1969; Senior Research Food Scientist, General Mills, Minneapolis. Minn. U.S.A. As a result of his work, General Mills submitted four patent applications.

DIRECTORSHIPS

included Teva Pharmaceuticals, Dekel Edible Oil Industries, Keren Electronics, Institute of Food Microbiology and the institute for Quality & Control.

HONORS

Appointed University of Illinois Fellow in Food Science. Awarded Scholarship by the Haifa Chapter of Rotary Club

Member in the following Honor Societies: Sigma Xi, Phi Kappa Phi and Gamma Sigma Delta.

AFFILIATIONS

Professional Member of the Institute of Food Technologists. Member of the Israel Society of Food & Nutrition Sciences and the Association of Chemical Engineers. Chairman of several technical and scientific committees.

MILITARY SERVICE

Honorably discharged from the Israel Defense Forces with the rank of Captain.